

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

ROBERT SCHELSKE, *et al.*,

Plaintiffs,

v.

LLOYD J. AUSTIN, III,
United States Secretary of Defense, *et al.*,

Defendants.

No. 6:22-cv-0049-H

DEFENDANTS' NOTICE OF ADDITIONAL REINSTATEMENT OFFER

Defendants respectfully submit this notice to provide the Court with an update regarding the Army's obligation, pursuant to this Court's December 16, 2022, order, to notify the Court regarding the separation of any Soldiers based solely on noncompliance with the former Department of Defense vaccine mandate when the Soldier had submitted a religious accommodation request and was found to have a sincerely held religious belief.

As outlined in Defendants' notice of December 29, 2022, following the Court's order the Army implemented several different processes to track Soldier separations, including retrieving data from multiple Army databases and distributing the notification order throughout the entire active-duty Army via legal channels. ECF No. 82. Despite its good-faith efforts, the capture of real-time information was affected by an unfortunately timed brown-out of the Integrated Personnel and Pay System-Army, the Army's primary personnel database, and the large number of Soldiers away from the office for the Army's holiday block leave period.¹

When the brown-out ended, the Army once again retrieved information contained in its databases regarding Soldier separations and identified several separations that required follow-

¹ Information regarding the four Soldiers previously described to the Court in ECF No. 82 was collected prior to the beginning of the brown-out.

up. After communicating with these Soldiers' units, the Army identified a single Soldier subject to the Court's notification order. While serving in Korea, this Soldier was involuntary separated for declining to receive a COVID-19 vaccine after his request for accommodation was denied. The separation action was approved by the separation authority on October 13, 2022. The Soldier left Korea on November 16, 2022, and was on terminal leave from that point forward. His official discharge date was January 14, 2023.

On January 20, 2023, the Secretary of the Army authorized an offer of reinstatement for this Soldier. The Army began attempting to contact the Soldier to offer reinstatement shortly thereafter, making attempts by telephone to the Soldier, by telephone to the Soldier's parents' home, and by social media communications. After several attempts, the Soldier responded to a social media message and arranged to speak with the unit by phone on the evening of January 26, 2023, but the Soldier failed to call the unit and did not answer his phone when the unit attempted repeatedly to call him. The unit plans to send him the reinstatement offer via a certified mail.

* * *

Dated: January 27, 2023

Respectfully submitted,

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